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10-26-2010

USA v. McGeehan

Precedential or Non-Precedential: Precedential

Docket No. 05-1954

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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

Nos. 05-1954 & 05-2446

UNITED STATES OF AMERICA

v.

LAWRENCE MCGEEHAN,
Appellant at No. 05-1954

KATHLEEN HALUSKA,
Appellant at No. 05-2446

D.C. Criminal Nos. 03-cr-0125-1 & 03-cr-0125-2

Present: SCIRICA, RENDELL and SMITH, Circuit Judges.

ORDER

Upon consideration of the Supreme Court's decision in *Skilling v. United States*, 130 S.Ct. 2896, 2931 (2010), as well as the parties' representations in their letter-briefs, the precedential opinion and judgment filed on October 22, 2009, are hereby vacated. In light of the Supreme Court's holding in *Skilling* that 18 U.S.C. § 1346 covers only bribery and kickback schemes, as well as the representations of the parties in their letter-briefs, the judgment of the District Court as to counts 3, 5, 6, 7, 8, 9, 10, 11, 13, 19, 20, 21, and 22 of the Superseding Indictment is hereby vacated. The case is hereby remanded for the District Court to consider Appellants' argument that their convictions as to counts 23 through 29 were tainted by the introduction of evidence related to the mail and wire fraud

counts. We ask the District Court to address this argument in the first instance. In so doing, the District Court should address the issue of whether, as the government urges, this argument is not available to Appellant Haluska by virtue of her guilty plea. The Clerk is directed to issue the mandate forthwith.

BY THE COURT,

/s/ Anthony J. Scirica

Circuit Judge

Dated: October 26, 2010

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